

Exhibit 18

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **EXAMINATION BEFORE TRIAL OF RICHARD HY**

13 **APPEARING REMOTELY FROM**

14 **ERIE COUNTY, NEW YORK**

15
16 July 19, 2023

17 9:58 a.m. - 5:37 p.m.

18 pursuant to notice
19
20

21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

—RICHARD HY—

1 get in trouble by the department for stopping
2 them for, quote-unquote, no reason even though
3 you had one, we're paraphrasing that person's
4 complaint, then you give them a ticket. So
5 it's safer to give somebody a ticket than to
6 not and chance a complaint be brought against
7 you and Internal Affairs to then be
8 questioned, "well, if you stopped them, why
9 didn't you issue them a ticket?" And then my
10 answer would be "my discretion," but that was
11 one instance specifically I think every police
12 officer has had where you let somebody go with
13 a warning and then you wind up getting a
14 complaint.

15 Q. So you mentioned earlier tinted window
16 tickets. I'd like to talk a little bit more
17 about those.

18 During your time on the Strike Force,
19 were you aware of any formal policy on writing
20 multiple tickets for tinted window violations?

21 A. There was -- I forget where it came down from.
22 It was more of a verbal suggestion. It wasn't
23 a rule, it wasn't a law, but I remember

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1 stating -- I didn't state it. Somebody -- one
2 of the lieutenants told me, to the group, that
3 it wasn't necessary to issue a ticket for each
4 window, that you could start issuing it
5 singular -- a singular window tint ticket for
6 just one window.

7 An example would be if you have the
8 front windshield, the four doors of a normal
9 sedan tinted and the rear of a vehicle, the
10 rear window tinted, a tint ticket could be
11 issued for each window. In fact, there's
12 specific vehicle and traffic violations
13 numbers for the front and back window as well
14 as the side front and back windows. So the
15 suggestion was instead of ticketing one window
16 each, a ticket each, that you could just give
17 one window ticket for a single window that had
18 the tint instead of the max.

19 Q. And to confirm, do you recall when that
20 suggestion was made to you?

21 A. It was later on. It was near the end of
22 Strike Force. I want to say it was within but
23 not prior to the last year that it was still a

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—RICHARD HY—

1 unit.

2 Q. And prior to that suggestion, had your
3 practice been to issue one ticket for each
4 piece of glass?

5 A. Yes.

6 Q. Okay. And after receiving that suggestion,
7 did you change your practice?

8 A. No, it was on discretion. I was less likely
9 to but I would still issue it, especially if
10 the tint was like limo tint.

11 Q. Did you ever discuss a practice of issuing
12 multiple tinted window tickets versus one
13 ticket for all windows as we just discussed
14 with other Strike Force officers?

15 A. Yes.

16 Q. What do you recall about those discussions?

17 A. Just in passing talking about that vehicle one
18 day got one ticket because whatever reason and
19 then that vehicle the other day had really
20 dark tints so they got every window, general
21 things like that.

22 Q. Do you recall whether the majority of people
23 you spoke to had a practice of issuing one

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1 MR. SAHASRABUDHE: Objection to form.

2 A. Well, I mean, if it was seniority based,
3 sometimes it would never come to me. Like I
4 was the lowest man on the totem pole there. I
5 was -- I had the most junior seniority so the
6 11:30 to like 3:30 shifts, when those were
7 available, the pre-shift overtime, I rarely
8 got those. But when we had the opposite
9 shift, sometimes I would get that.

10 Q. And were you often looking to work more
11 overtime shifts while on Strike Force?

12 A. When overtime came, yes, yeah, I was hoping to
13 get a little more bump in the paycheck.

14 Q. And do you -- to your knowledge, was that the
15 general -- do the other officers in Strike
16 Force agree with you as far as being motivated
17 to work overtime?

18 MR. SAHASRABUDHE: Objection to form.

19 A. Everybody wants, you know, more money, yeah.
20 They want their paycheck to be a little bit
21 more beefy, and then you had the old timers
22 that wanted their retirement to reflect that
23 as well.

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1 to immediately state what you would do and how
2 you would utilize different aspects of what
3 you have as a detective such as like SWAT and
4 the Fire Department or a K9 cadaver dog,
5 etcetera, in that scenario.

6 And then based on that, those two things
7 combine, the written and the oral exam, you
8 have scores and those overall scores give you
9 your pecking order for who is the next in line
10 to be promoted.

11 Q. And were there any other metrics that were
12 taken into account as far as a promotion
13 decision?

14 MR. SAHASRABUDHE: Objection to form.

15 A. I don't know.

16 Q. Do you recall your -- ever being subject to a
17 performance evaluation as part of that
18 promotion decision?

19 MR. SAHASRABUDHE: Objection.

20 A. No.

21 Q. Were you ever subject to a performance review
22 during your time at the BPD?

23 MR. SAHASRABUDHE: Objection to form.

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—RICHARD HY—

1 A. No. I wish I was.

2 Q. Why do you say that?

3 A. I like to know where I stand, you know, where
4 to improve, where to get better on, you know,
5 how I stack up against my peers. It gives you
6 a better idea of how to self-evaluate.

7 Q. Did you have any --

8 A. Plus --

9 Q. Sorry. Go ahead. Excuse me.

10 A. No, go ahead. That was it.

11 Q. I was just going to say, did you have any kind
12 of periodic review of your workplace conduct
13 of any kind or no?

14 A. Other than an occasional award or an interview
15 with the Internal Affairs Division, not much.
16 You will get a pat on the back from a
17 lieutenant or maybe a senior patrol officer
18 will bring you under his wing and assist you
19 in kind of going in the right direction but
20 that's about it.

21 Q. Outside of those pat-on-the-back situations,
22 were you ever given any feedback on your
23 performance at all throughout your time at the

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1 cover explicit and implicit bias?

2 A. I don't think so.

3 Q. If I say racially biased conduct, do you --
4 what do you understand that to mean?

5 MR. SAHASRABUDHE: Objection to form.

6 A. I don't know. You would have to give me a
7 description.

8 Q. Could you define racial bias for me?

9 MR. SAHASRABUDHE: Objection to form.

10 A. I think racial bias is just treating somebody
11 differently based on their race. Does that
12 extend to race, color, creed, religion,
13 etcetera, kind of like overall or racist
14 tendencies?

15 Q. You tell me.

16 A. I'm sorry. I don't know. I'm asking you.

17 Q. I'm just hoping to get your understanding
18 here. How -- how did you come to the -- that
19 understanding of racial bias?

20 MR. SAHASRABUDHE: Objection to form.

21 A. I honestly don't remember. I think that's
22 just hearing it on the news, just being biased
23 primarily by the pigmentation of somebody's

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1 balance of questioning during a traffic stop?

2 A. Could you say that again? I didn't quite hear
3 you.

4 Q. Sure. Were you ever trained on the acceptable
5 balance of questioning that you could use
6 during a traffic stop?

7 MR. SAHASRABUDHE: Objection to form.

8 A. I may not know the term "acceptable balance
9 questioning during a traffic stop," but I have
10 been trained on appropriate questions to ask a
11 driver when stopped at a traffic stop. It may
12 not have been the verbiage that you're using,
13 and it might have been a much more dumbed
14 down, more easily digestible version than
15 maybe what you're asking me.

16 Q. Sure. So what were you trained as far as the
17 appropriate questions to ask during a traffic
18 stop?

19 A. Questions as if -- if they own the vehicle,
20 where they're traveling to and from, if they
21 had a -- had any impairment, where their age
22 check location -- not age check location,
23 their age, the sex that they identify or what

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1 they were born as, their information that's on
2 their driver's license and potentially the
3 registration of the vehicle.

4 Q. And were you ever trained on the
5 constitutionality of traffic stops?

6 MR. SAHASRABUDHE: Objection to form.

7 A. Briefly. I'm sure that it's a very limited
8 and broad -- it was a very limited and broad
9 class, like the generalities.

10 Q. Do you recall when you attended that class?

11 A. That would have been during the academy.

12 Q. And you have -- am I correct -- is it correct
13 that you have not attended further training on
14 the constitutionality of traffic stops since
15 the academy?

16 A. Correct.

17 MR. SAHASRABUDHE: Objection to form.

18 Q. And do you recall what that training covered
19 more than a broad focus on constitutionality
20 when you did attend it?

21 A. I do not remember what the specifics of that
22 class in the academy were.

23 Q. So I think we discussed this kind of briefly

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1 during the break, but did you ever receive
2 training on policing specifically in certain
3 areas of Buffalo?

4 MR. SAHASRABUDHE: Objection to form.

5 A. I don't think so.

6 Q. Did you ever, for example, receive training on
7 how to interact with the citizens specifically
8 on Buffalo's East Side?

9 MR. SAHASRABUDHE: Objection to form.

10 A. No. No, I don't believe that I received a
11 class like that.

12 Q. And did you ever receive training on how to
13 interact with Buffalo citizens of color in
14 particular?

15 MR. SAHASRABUDHE: Objection to form.

16 A. There are -- I can't remember the class, and
17 it may have even been just conversations
18 during more formal instruction on how to treat
19 individuals and the perception that like
20 minority communities have with police and to
21 be aware of that, but I can't remember like a
22 specific block of instruction and the bulleted
23 points of that.

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1 Q. In addition to being aware of that, do you
2 recall any concrete steps that you were
3 instructed on taking to -- in light of -- in
4 light of the possibility of interacting with
5 minority communities?

6 MR. SAHASRABUDHE: Objection to form.

7 A. Could you say that again?

8 Q. Sure. You mentioned that the -- you had
9 conversations about the awareness of policing
10 in minority neighborhoods, correct?

11 A. Yes.

12 Q. Did those conversations include any sort of
13 concrete steps or action items that you could
14 take to improve policing in those minority
15 neighborhoods?

16 MR. SAHASRABUDHE: Objection to form.

17 A. From what I remember, it was more of an
18 understanding of seeing things -- I'm being
19 very general here, of seeing things through
20 other people's eyes and experiences that
21 others may have are not your own and to treat
22 everybody as an individual and not, you know,
23 specifically based on, you know, like race,

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1 color, creed, etcetera. You're supposed to be
2 kind of blind to what makes up the individual
3 and more open up to listening to the
4 individual.

5 Q. Did you have any specific concerns about
6 policing in neighborhoods of color?

7 A. No.

8 MR. SAHASRABUDHE: Objection to form.

9 Q. Did you feel you were adequately prepared by
10 the BPD to do so?

11 MR. SAHASRABUDHE: Objection to form.

12 A. Yes.

13 Q. And was that preparation in virtue of that one
14 training you're mentioning, or were there
15 other things that you feel prepared you to do
16 that type of policing?

17 MR. SAHASRABUDHE: Objection to form.

18 A. Specifically the field training program that
19 not only the law -- Erie County Law
20 Enforcement Academy puts you through but also
21 the City of Buffalo, Buffalo Police
22 Department's field training program.

23 Q. Would you describe that field training program

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1 in more detail?

2 A. So the similarities between the Erie County
3 Law Enforcement and the City of Buffalo's
4 field training program are that you are
5 embedded with your department, whoever you're
6 going to be working for, whoever has hired
7 you. For a certain period of time we are
8 doing the left see, right see where there is a
9 field training officer, usually a senior
10 officer who's got -- who's gone through some
11 field officer training so they're not just a
12 normal patrolman but a normal patrolman that's
13 also been -- gone through a course in how to
14 guide, mentor the next generation of police
15 officers.

16 And you go to calls, you're evaluated by
17 your first-line lieutenants and leaders and in
18 this on-the-job experience you get to learn,
19 see, and digest how your field training
20 officer, and you can jump around from one to
21 the other and go to different districts, deals
22 with or interacts with different members of
23 the community, race, color, creed, religion,

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1 you know, ethnic background, all of these
2 things you get to see in person.

3 Q. Were you ever a field training officer while
4 in the BPD?

5 A. No. No, not yet. I was in the academy, but I
6 wasn't a field training officer.

7 Q. And when you participated in that field
8 training program, do you recall being
9 instructed on racial bias or racially biased
10 policing in any way?

11 MR. SAHASRABUDHE: Objection to form.

12 A. No.

13 Q. But you mentioned that you do feel that the
14 field training program adequately prepared you
15 to police in Buffalo's neighborhoods of color?

16 MR. SAHASRABUDHE: Objection to form.

17 Q. Is that correct?

18 A. Yes.

19 Q. So do you feel that there is not any specific
20 racial bias training necessary to adequately
21 prepare you to police in Buffalo's
22 neighborhoods of color?

23 MR. SAHASRABUDHE: Objection to form.

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1 A. Yes.

2 Q. I'm going to pull up a document here. Give me
3 one second, and I will share my screen. I
4 believe this will be Exhibit 9. I'm sure
5 Carrie will correct me if that's incorrect.

6 So this is a document bearing Bates
7 number COB042040. This was produced to us by
8 Defendants. It's a memorandum indicating that
9 you were to report -- or that certain officers
10 were to report to training on February 9th,
11 2016, at 1630. And if you look at the list in
12 the middle of the document, your name is on
13 the bottom of the list on the right. Do you
14 have any reason to believe that this
15 memorandum is not accurate?

16 MR. SAHASRABUDHE: Objection to form.

17 A. No.

18 Q. Do you recall reporting to training on this
19 date?

20 A. I don't remember.

21 Q. Do you ever recall a training titled
22 "Diversity, First Aid, Blood Bourne, and
23 PESH"?

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1 A. I am familiar with the bloodborne pathogens
2 and first aid being annual training and its --
3 the contents of it. I'm not -- I do not
4 remember the PESH or the diversity training.

5 Q. Do you know what PESH is?

6 A. I don't remember.

7 Q. Do you ever recall attending diversity
8 training?

9 A. I don't recall sitting in the class and going
10 through the slideshows or the instruction, no.

11 Q. I'm going to stop sharing the screen now.

12 While you were an officer on the Strike
13 Force, do you recall ever witnessing any
14 racially biased conduct by your peer officers?

15 MR. SAHASRABUDHE: Objection to form.

16 A. I would need a better definition of what --
17 what you're saying racially biased is.

18 Q. So I should -- do you feel that you can
19 identify racially biased conduct without -- on
20 your own I should say?

21 MR. SAHASRABUDHE: Objection to form.

22 A. I don't understand the term "racially biased
23 conduct." Could I determine if somebody was

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~~RICHARD HY~~

1 David Wright wrote this report in which he
2 states that you did state the N word?

3 A. I will tell you that there is some conflict
4 between the conduct of Lieutenant David Wright
5 and Officer Joseph Milewski to where that the
6 two are not to be working with one another and
7 that his professionalism has been called into
8 question.

9 Q. So your explanation for him -- am I correct to
10 understand your explanation for him writing
11 this statement here is that it's due to a
12 personal issue he has with Officer Milewski?

13 A. Correct.

14 Q. And did an investigator in this investigation
15 ever ask you about the alleged use of -- your
16 alleged use of the N word in this incident?

17 A. I don't remember.

18 Q. After this complaint, did you receive any
19 training related to bias?

20 A. No.

21 MR. SAHASRABUDHE: Objection to form.

22 Q. Do you recall any training at all in direct
23 result of this incident?

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1 A. No.

2 MR. SAHASRABUDHE: Objection to form.

3 MR. TIMMICK: I'm going to stop sharing
4 my screen. If we could take a quick break, I
5 think we've got --

6 MR. SAHASRABUDHE: How long have we been
7 on the record for?

8 MR. TIMMICK: I'm doing math right now.
9 Carrie, do you have that on you?

10 THE REPORTER: Yep, I have 6 hours 31
11 minutes, 54 seconds.

12 MR. TIMMICK: Thank you. I'm not sure
13 we will need all of those 30 minutes, Peter,
14 but can we take a quick five minutes and
15 then --

16 MR. SAHASRABUDHE: Sure. Can we make it
17 five, please?

18 MR. TIMMICK: Yeah, sure.

19 MR. SAHASRABUDHE: Thank you.

20 MR. TIMMICK: All right, thanks.

21 (A recess was taken.)

22 BY MR. TIMMICK:

23 Q. I am going to just pull up one more document

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~~RICHARD HY~~

1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4
5 I, Carrie A. Fisher, Notary Public, in
6 and for the County of Erie, State of New York,
do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken remotely
12 pursuant to notice at the time and place as
herein set forth; that said testimony was taken
down by me and thereafter transcribed into
typewriting, and I hereby certify the foregoing
testimony is a full, true and correct
transcription of my shorthand notes so taken.

13 I further certify that I am neither
14 counsel for nor related to any party to said
15 action, nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
7th day of August, 2023.

18
19 

20 -----
Carrie A. Fisher
Notary Public - State of New York
21 No. 01FI6240227
Qualified in Erie County
22 My commission expires 5/02/27
23

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